

EXHIBIT 19

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

L.E., by his next friends and
parents, SHELLEY ESQUIVEL
and MARIO ESQUIVEL,

Plaintiff,

Case No. 3:21-cv-00835

v.

BILL LEE, in his official capacity
as Governor of Tennessee, *et al.*,

Defendants.

EXPERT REPORT OF HELEN CARROLL

1. I have been retained by counsel for Plaintiff L.E., by his next friends, Shelley Esquivel and Mario Esquivel, as an expert in connection with the above-captioned litigation.

2. The purpose of this report is to offer my expert opinion on policies for transgender inclusion in athletics in the United States, as well as the benefits of interscholastic athletic participation for students, and the harms to transgender and cisgender students of policies that exclude transgender students from participation in accordance with their gender identity.

3. I have actual knowledge of the matters stated herein and have reviewed the text of Senate Bill 228 as part of my preparation for this report. I have also reviewed the Complaint filed in this case.

4. I am being compensated for my work on this matter at a rate of \$400.00 per hour. My compensation does not depend on the outcome of this litigation, the opinions I express, or the testimony I provide.

PROFESSIONAL BACKGROUND

5. I received a Bachelor of Science in Physical Education in 1974 from Middle Tennessee State University, located in Murfreesboro, Tennessee, and a Master of Science in 1976 from Appalachian State University, located in Boone, North Carolina. A current copy of my curriculum vitae is attached as **Exhibit A**.

6. I was the Head Women's Basketball Coach at the University of North Carolina-Asheville ("UNC-Asheville") from 1980-1984. In my last year, the team won the 1984 National Association of Intercollegiate Athletics ("NAIA") National Championship.

7. After coaching, I served as Associate Athletic Director at UNC Asheville from 1985-1988.

8. I was a National Collegiate Athletic Association ("NCAA") and NAIA Athletic Director at Mills College, located in Oakland, California, from 1988-2000.

9. My responsibilities as a coach included athlete recruitment, ensuring my athletes' privacy and safety, and creating team cohesion. These responsibilities also included developing and implementing guidelines that covered, among other things, an atmosphere of inclusion and respect within the team.

10. My responsibilities as athletic director included ensuring that all coaches and teams followed school policies regarding privacy, safety, and inclusion; supporting coaches in implementing policies and in athlete recruitment; team development; ensuring the adequacy of facilities; ensuring compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*; implementing nondiscrimination policies designed to ensure the inclusion and safety of athletes; and overseeing athletic department budgets.

11. After spending 30 years as an athlete, coach and athletic director, I joined the National Center for Lesbian Rights (“NCLR”) as their Sports Director. There, I specialized in providing training and support to athletic programs, athletes, and institutions to recognize that the inclusion of lesbian, gay, bisexual, and transgender people diversifies and strengthens the sport experience.

12. I have consulted with ten NCAA institutions through their development and implementation of policies providing equal treatment to transgender student athletes, and I have consulted with seven state high school athletic associations through their development and implementation of policies providing equal treatment to transgender student athletes.

13. I am a co-author of the 2011 NCAA Guide for Transgender Student Athlete Inclusion.

14. I have experience working closely with major national sports organizations, including the Women’s Sports Foundation and the NCAA, to advance LGBTQ-inclusive policies.

15. I have also been a featured speaker on panels regarding inclusive athletics policies with Nike, ESPN’s “Outside the Lines,” and the New York Times. I am featured in Dr. Pat Griffin’s book, “Strong Women, Deep Closets and The Outports Revolution” by authors Jim Buzinski and Cyd Ziegler Jr.

16. I originally became familiar with transgender student athletes after the International Olympic Committee announced a policy in 2003 that included participation of transgender athletes. After this policy was announced, I worked with transgender athletes and several institutions and individuals—including the Professional Golf Association, United States

Track and Field Association, and the Ladies Professional Golf Association—to determine the best practices for sports organizations for the inclusion of transgender athletes.

17. In October 2010, I co-authored a report (the “Report”) with Dr. Pat Griffin entitled “On the Team: Equal Opportunity for Transgender Students Athletes.” The Report was co-sponsored by the Women’s Sports Foundation and NCLR, and was the result of a 2009 national think tank hosted by the NCAA entitled “Equal Opportunities for Transgender student athletes.” Think tank participants included leaders from the NCAA and the National Federation of State High School Associations, transgender student athletes, and an array of experts on transgender issues from a range of disciplines, including law, medicine, advocacy, and athletics. The goals of the initiative were to develop model policies and identify best practices for high school and collegiate athletic programs to ensure the full inclusion of transgender student athletes. The Report also led to the 2011 NCAA Guide for Transgender Athlete Inclusion.

18. I have experience developing policies governing the inclusion of transgender student athletes with high schools and athletic associations to ensure that transgender athletes have access to athletic opportunities as children, adolescents, and young adults. I have also worked with coaches learning how to provide inclusive opportunities to transgender students who want to play on sports teams. These policies often address the standard under which transgender athletes are able to participate, as well as basic accommodations such as knowing what pronouns or names to use when referring to a transgender student, where a transgender student should change clothes for practice or competition, and what restroom or locker room students should use.

19. In preparing this report, I have relied on my training and years of experience as set out in my curriculum vitae, and on the materials listed therein. A true and accurate copy of

my curriculum vitae is attached hereto as Exhibit A. It documents my education, training, research, and years of experience in this field, and includes a list of publications that I have worked on in the last 10 years.

20. I have not provided expert testimony at deposition or trial in any cases in the past four years.

STATE POLICIES REGARDING TRANSGENDER INCLUSION IN
INTERSCHOLASTIC ATHLETICS

21. Throughout my career, I have experience developing policies governing the inclusion of transgender student athletes with high schools and athletic associations to ensure that transgender athletes have access to athletic opportunities in all stages of development. I have also worked with coaches learning how to accommodate transgender youth who want to participate in sports.

22. Sixteen states and the District of Columbia have successfully implemented policies through their high school athletic associations that allow transgender student athletes to participate in athletics consistent with their gender identity. Several other local school districts have enacted similar policies as well. These policies have been in place for almost a decade in most cases. Washington State, for example, has had an inclusive policy since 2008. Thousands of transgender students are eligible to participate in accordance with their gender identity in these states and districts.

23. Many state athletic associations have implemented policies that allow transgender student athletes to participate in athletics consistent with their gender identity without requiring the student to demonstrate evidence of medical treatment. Only a very small number of states

require proof of hormone therapy before permitting girls who are transgender to participate in high school athletics for women and girls.

24. These policies have been successful, allowing fuller participation in interscholastic athletics without any negative impacts. I am not aware of any cisgender girls being harmed by the presence of a transgender student athlete participating on their team or in their league. I am not aware of any negative impacts on cisgender boys due to the presence of transgender boys participating on their teams or in their league. I am likewise not aware of cisgender students losing scholarship opportunities as a result of transgender athletes participating on their team or in their league. Athletic scholarship opportunities are awarded based on a range of factors. Coaches look at the entire athlete, not just on what place a person or team comes in at a given race or tournament.

25. Despite the successful implementation of inclusive policies, a number of states—including Tennessee—have recently enacted statutes prohibiting transgender student athletes from participating in interscholastic athletics in accordance with their gender identity, regardless of the circumstances.¹

INTERNATIONAL OLYMPIC POLICY FOR TRANSGENDER INCLUSION

26. Elite sporting bodies, such as the International Olympic Committee (“IOC”), do not impose categorical bans based on an athlete’s transgender status. The IOC has allowed transgender athletes to participate in accordance with their gender identity in elite Olympic level competitions for almost 20 years, and the first transgender athletes to compete in accordance with their gender identity did so in 2020.

¹ In 13 of these states, the prohibition applies only to transgender girls. In Alabama, the prohibition applies to transgender boys unless there is not an equivalent girls’ team. Tennessee is the only state that applies a categorical ban to all transgender student athletes.

27. The initial IOC policy, issued in 2003, allowed transgender athletes to participate in accordance with their gender identity on the condition they undergo sex reassignment surgery. That policy was modified in 2015 to allow transgender men to compete in accordance with their gender identity without restriction, and provided that transgender women may compete in accordance with their gender identity if they have been on hormone replacement therapy for one year before competing.

28. The IOC most recently updated this policy in November 2021. The new policy provides that each sport's governing body should develop eligibility criteria for their individual sports. The IOC issued a framework to help inform the development of eligibility criteria among the IOC's sporting bodies. The framework identifies core principles that recognize that eligibility criteria should not systematically exclude athletes on the basis of their transgender status or sex variations. To my knowledge, no Olympic governing body of an individual sport has issued a policy that would categorically ban transgender athletes based on their transgender status.

NCAA POLICY FOR TRANSGENDER INCLUSION

29. Like the IOC, the NCAA also does not prohibit transgender athletes from participating in elite athletic events in accordance with their gender identity. And transgender athletes have been eligible to compete on teams at NCAA member colleges and universities in accordance with their gender identity for over a decade.

30. In 2011, the NCAA published the first Guide for Transgender Student Athlete Inclusion, which is a guide to colleges and universities on how to adopt inclusive policies and practices for transgender student athletes. I am a co-author of the NCAA Guide for Transgender Athlete Inclusion.

31. The 2011 NCAA policy was the result of input from athletes, administrators, and doctors, with significant input from the NCAA's Committee on Competitive Safeguards and Medical Aspects of Sports. The 2011 policy allowed women who are transgender to compete on women's teams in women's sporting events after completing one year of testosterone suppression hormone therapy as part of gender transition.

32. In October 2020, I participated in a transgender student athlete participation summit organized by the NCAA to gather input from NCAA membership and various subject matter experts to inform NCAA policy and practice with regard to gender identity and student athlete participation.

33. In January 2022, the NCAA Board of Governors announced a new transgender participation policy. The new participation policy clarifies—consistent with the most recent IOC policy—that eligibility determination policies will be determined by the national governing body of an individual sport, and that transgender women seeking to participate in accordance with their gender identity will need to document sport-specific testosterone levels at the start of their season, six months after the first documentation, and four weeks before their sport's championship selections. The 2022 policy expressed the NCAA's commitment to transgender student athletes and noted that the Gender Identity and Student-Athlete Participation Summit Report will be used to support NCAA member schools to support fairness and inclusion and the health of transgender and nonbinary student athletes

34. Only one national governing body (USA Swimming) has issued a policy since the 2022 policy was announced. This policy allows transgender athletes to participate in accordance with their gender identity if they meet requirements concerning their testosterone levels.

THE BENEFITS OF INTERSCHOLASTIC ATHLETIC PARTICIPATION

35. School athletic programs are widely accepted as integral parts of the middle school and high school experiences. Athletics provide important opportunities for social, emotional, and physical well-being, confidence, and other positive impacts for student athletes.

36. The benefits of participation in athletics are well-documented. The physical exercise students get through athletics increases their muscle strength, oxygen consumption, and lung capacity. Students who participate in sports in middle school and high school often continue being physically active into adulthood, which helps offset negative long-term health care outcomes from inactivity. Participants in school sports also experience positive mental health outcomes from participation, such as improvements in self-esteem and decreased social anxiety and social isolation.

37. Participation furthers social and emotional development. Student athletes learn to control their emotions in high-pressure situations and they develop key social skills such as sacrifice and the importance of teamwork.

38. Participation in athletics often provides a sense of connection and belonging that is forged through intense experiences that reverberate throughout an athlete's lifetime. Athletics empowers student athletes by providing them with a context in which students learn the importance of teamwork, discipline, and perseverance that is formed by sharing a similar pursuit and objective.

39. Participation in athletics often requires a student to excel in their academic performance because their participation is often contingent upon achieving a minimum grade point average. Academic achievement often serves as the gateway to further academic success by

increasing a student's chances of acceptance into college as well as their professional prospects, often improving dramatically a student's long-term economic outcomes.

40. For some students, playing on high school teams can also lead to scholarship opportunities at the collegiate level. And for some, it leads to future careers in athletics as competitors, coaches, administrators, and athletic trainers.

41. Based on my interaction with numerous student athletes, coaches, and athletic directors for 40 years, it is widely recognized that participation in interscholastic athletics often serves as a pivotal and life-changing experience that helps form young people into who they become as adults.

THE HARMS OF EXCLUSION FROM INTERSCHOLASTIC ATHLETIC PROGRAMS

42. Statewide laws prohibiting transgender students from participating in interscholastic athletics consistent with their gender identity, such as the one Tennessee has enacted, inflict profound harms on transgender students by depriving them of the many benefits that flow from actively participating in sports.

43. When students are excluded from athletics, they are most immediately denied the physical and mental well-being that participation in sports can bring. But more importantly, they are denied the ability to develop meaningful relationships with their peers and are deprived of the many life skills that participation provides.

44. When transgender students are excluded from participating, they also are singled out and stigmatized—exacerbating the discrimination and harassment that many transgender youth already experience.

45. Efforts to exclude transgender students from participation are harmful to transgender and cisgender students because they convey a message that the values of diversity,

nondiscrimination, and inclusion are not important. This can undermine team unity and encourage divisiveness by policing who is “really” a boy or a girl.

46. Student athletics, and the student body as a whole, are harmed by limiting diversity in athletics. Racial diversity, geographic diversity, and transgender and other LGBTQ diversity teach young athletes how to bridge cultural differences and work together toward a common goal. In addition, the team is strongest when it can draw from the largest pool of potential members.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed On: April 15, 2022

/s/ Helen Carroll
Helen Carroll

EXHIBIT A

Helen J. Carroll

Sports Diversity Consultant

Mountain View, CA 94043 hcarroll@nclrights.org

415-595-2123

SUMMARY

Over 40 years of leadership in women's sports including:

- Developing National Think Tank series for LGBT concerns in athletics.
- Coaching a team to the NAIA National Championship title.
- Directing, coaching, and teaching in NCAA I, II, and III athletic programs.
- Maintaining strong, ongoing relationships with coaches, players, ADs, and media at all levels, from junior high school through WNBA.
- Marketing university sports programs to alumni and corporate donors.
- Nationally recognized spokesperson for women's sports issues.
- Nationally recognized spokesperson for LGBT issues in sport.
- Nationally recognized expert for Transgender inclusion in all sports levels.
- Demonstrated ability to recognize and leverage trends impacting women's sports.

EXPERIENCE

Consultant for LGBTQ Policies and Issues in Sport, San Francisco, CA 2016 – Present

National Center For Lesbian Rights, San Francisco, CA 2001 – 2016

Sports Project Director: Maintain relationships at all levels of women's basketball, from high school to the WNBA. Consult with coaches, athletic directors, and academic/administrative staff on sexual orientation and transgender issues that impact women's sports programs. Provide expert commentary for media. Attend NCAA Basketball Finals, WNBA games and playoffs, and other key competitions.

- Created National Think Tank series for issues pertaining to LGBT student athletes, coaches and Administrators with the NCAA.
- Co-authored the 2011 NCAA Guide for Transgender Athlete Inclusion.
- Co-authored the 2010 "On the Team: Equal Opportunity for Transgender Student Athletes." The Report was co-sponsored by the Women's Sports Foundation and NCLR, and was the result of a 2009 national think tank entitled "Equal Opportunities for Transgender Student Athletes," hosted by the NCAA with participation including the National Federation of High Schools.
- Worked closely with major national sports organizations including the Women's Sports Foundation and the NCAA. Featured speaker on panels with Nike, ESPN's "Outside the Lines," and The New York Times.
- Featured in Dr. Pat Griffin's book, "Strong Women, Deep Closets and The Outsports Revolution" by authors Jim Buzinski and Cyd Ziegler Jr.

- Presented “The Gay/Lesbian Athlete’s Place in the Corporate World” at Nike main campus.
- Developed an innovative education program to help NCAA LGBT athletes be included in sports in a positive way.
- Worked with high visibility coaches and administrators to address unethical recruiting practices that negatively impact women’s basketball’s image.
- Working with the NCAA Director of inclusion, on diversity issues affecting student athletes resulting in policy changes on the national level.

Mills College, Oakland, CA

1988 - 2000

Director of Athletics, Physical Education and Recreation

Directed NCAA intercollegiate sports programs. Developed and implemented department vision and strategic plan. Oversaw department budget. Hired, trained and evaluated coaches, lecturers, recreation and support staff. Negotiated contracts and salaries. Oversaw NCAA compliance, eligibility and financial aid for student athletes. Managed sports information, promotion and marketing. Co-partnered with college president to raise funds for sports.

- Guided programs of inclusion, including combatting racism, classism, homophobia, and transphobia.
- Helped maintain academic excellence of student athletes, including two Rhodes Scholar fellowships and Academic All-America Teams.
- Directed construction of new athletic facilities including aquatic center, soccer fields and cross-country trail by working to increase funds commitments from supporters.

University of North Carolina – Asheville, Asheville, NC

1981 - 1988

Interim Athletic Director and Associate Athletic Director (1984-1988)

Led athletic programs including strategic vision, budget, recruiting, hiring. Managed transition from NAIA affiliation to NCAA Division I Big South Conference.

Head Women’s Basketball Coach (1981-1984)

Responsible for total program including player development, hiring/supervising staff, recruitment, budget management and maintaining visibility with alumni and media. Coordinated strategy and provided leadership during games.

- Within four years, build team that won 1984 NAIA National Championship title by setting a strategic vision, recruiting key players, developing innovative game plan, and providing environment for athletes to excel.
- Named NAIA National Coach of year for outstanding achievement in leading a team to national championship within four years.

Basketball and Tennis Coach, University of Tennessee, Martin, TN

1976 - 1978

Basketball, Track and Field Coach, Wayne State College, Wayne, NE

1979 - 1981

EDUCATION

M.A., Athletic Administration, Appalachia State University

- Emphasis in Athletic Administration, Coaching, Recreational Administration

B.S., Health, Physical Education and Recreation, Middle Tennessee University

- Minor in Psychology

PROFESSIONAL AFFILIATIONS

National Association of Collegiate Women Athletic Directors (NACWAA)

National Association of Collegiate Directors of America (NACDA)

America Alliance of Health, Physical Education and Recreation

National Association of Girls and Women in Sport

Women's Sports Foundation

Women's Basketball Coaches Association